

REMARKS

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. Claims 14, 22, 24, 32, 36, 43, 45, and 52 are amended herein. Claims 15, 25, and 37 have been canceled.

5 Claims 14, 16-24, 26-33, 36, and 38-53 remain pending

Statement of Substance of Examiner Interview dated 2/5/08

Applicant would like to sincerely thank Examiner Pinherio and Primary Examiner John Hotaling for their time in discussing this application over the phone with Applicant's attorney, Daniel T. McGinnity on 2/5/08.

10 During this interview, the §103 rejections based on Van Ryzin, Shih, and THPS2 were discussed. In the interest of expediting allowance of the subject application and without conceding the propriety of the rejection, Applicant's attorney proposed subject matter for amendments to overcome the present rejections. The Examiners provided helpful input on the proposed amendments. No
15 Agreement was reached.

Accordingly, in the interest of expediting allowance of the subject application and without conceding the propriety of the rejection, amendments have been made to the independent claims herein in the spirit of those discussed during the interview, along with additional changes based upon the input received from
20 the Examiners. The Applicant submits that all of the pending claims are in condition for allowance. If any issues remain that would prevent the allowance of the application, Applicant requests that the Examiner contact the undersigned attorney to resolve the issues.

Rejections under §103

Claims 14-33 and 36-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,393,430 to Van Ryzin (“Van Ryzin”), in view of U.S. Publication No. 2003/0227473 to Shih et al. (“Shih”).

5 Claims 45-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Ryzin in view of Shih and in further view of Tony Hawk Pro Skater 2 for Playstation (“THPS2”). Applicant respectfully disagrees.

 Nevertheless, in the interest of expediting allowance of the subject application and without conceding the propriety of the rejection, amendments have
10 been made to the independent claims herein in the spirit of those discussed during the interview.

Claim Amendments

 In the interest of expediting allowance of the subject application and
15 without conceding the propriety of the rejection, amendments have been made to the independent claims herein in the spirit of those discussed during the interview. In particular, each of claims 14, 24, 36, and 45 has been amended to incorporate, in varying terms and scope, obtaining and using metadata from an online service using audio source identifiers.

20 Support for the amendments may be found throughout the specification and drawings as filed. Particular attention is drawn to Specification p. 31 lines 1-21; p. 32 lines 8-25; and p. 34 line 17-23. These portions describe examples of accessing

of an online service to obtain audio track metadata for using in game playback within the spirit of the amendments made to the independent claims. For instance:

Claim 14 as amended recites in part:

- *determining when an online service that provides a database containing meta data associated with the audio track is available,*
- *connecting to the online service,* obtaining the meta data associated with the audio track from the database and storing the meta data associated with the audio track, *wherein the meta data is obtained from the online service based at least in part on the identifier saved on the storage device*

Claim 24 as amended recites in part:

- *determine when an online service that provides a database containing meta data associated with the audio track is available,*
- *connect to the online service,* obtain the meta data associated with the audio track from the database and store the meta data associated with the audio track, *wherein the meta data is obtained from the online service based at least in part on the identifier saved on a storage device*

Claim 36 as amended recites in part:

- using an identifier of the audio source to retrieve meta data associated with the audio track *from a database over a network connection from an online service when the database is accessible;*
- saving the identifier of the audio source on the game console when the database is not accessible and *using the saved identifier to retrieve meta data associated with the audio track from the online service when the database is subsequently available*

Claim 45 as amended recites in part:

- use an identifier of the audio source to *retrieve meta data associated with the audio track from a database over a network connection from an online service* if the database is accessible

In the interview, it was discussed that Van Ryzin, Shih, and THPS2 fail to disclose, teach, or suggest any such subject matter. Specifically, these references lack any basis for interactions with an online service to obtain metadata related to game play-back. In fact, Van Ryzin, Shih, and THPS2 each appears to be limited to localized customization of audio and obtaining metadata directly from local media (e.g. a CD,) or from a localized database. None of Van Ryzin, Shih, and THPS2 even mentions an online service, let alone an online service that provides metadata for a music library of a game console. As pointed out by the Examiners in the interview, Van Ryzin does mention purchasing music via the internet (col. 3, lines 50-55). However, Van Ryzin does not discuss obtaining metadata via the internet or an online service accessible to obtain metadata. Thus, Van Ryzin does not provide a basis for at least this aspect of the claims as presently recited. Claims 15, 24, 36, and 45 and their respective dependent claims are allowable over the proposed combination of Van Ryzin and Shih or Van Ryzin, Shih, and THPS2 for at least these reasons.

For at least the foregoing reason, Applicant respectfully submits that claims 14, 16-24, 26-33, 36, and 38-53 as presently recited are not obvious over references of record. Applicant respectfully requests that the §103 rejections be withdrawn.

Conclusion

The Application is in condition for allowance and the Applicant respectfully requests reconsideration and issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is requested to contact the undersigned attorney to discuss the unresolved issue.

Respectfully submitted,

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